

116TH CONGRESS  
1ST SESSION

# S. 486

To waive the penalty for withdrawals from retirement plans for certain Federal employees and contractors affected by a lapse in appropriations, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2019

Mr. CASSIDY (for himself and Mr. WARNER) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To waive the penalty for withdrawals from retirement plans for certain Federal employees and contractors affected by a lapse in appropriations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SPECIAL RULES FOR USE OF RETIREMENT**  
4 **FUNDS BY FEDERAL EMPLOYEES AND CON-**  
5 **TRACTORS AFFECTED BY A LAPSE IN APPRO-**  
6 **PRIATIONS.**

7 (a) **WAIVER OF 10 PERCENT TAX ON EARLY DIS-**  
8 **TRIBUTIONS.**—Section 72(t) of the Internal Revenue Code

1 of 1986 shall not apply to any qualified furlough distribu-  
2 tion.

3 (b) INCOME INCLUSION SPREAD OVER 2-YEAR PE-  
4 RIOD.—In the case of any qualified furlough distribution,  
5 unless the taxpayer elects not to have this subsection apply  
6 for any taxable year, any amount required to be included  
7 in gross income for such taxable year shall be so included  
8 ratably over the 2-taxable-year period beginning with such  
9 taxable year.

10 (c) AMOUNT DISTRIBUTED MAY BE REPAID.—

11 (1) IN GENERAL.—Any individual who receives  
12 a qualified furlough distribution may, at any time  
13 during the 1-year period beginning on the day after  
14 the date on which such distribution was received,  
15 make 1 or more contributions in an aggregate  
16 amount not to exceed the amount of such distribu-  
17 tion to an eligible retirement plan of which such in-  
18 dividual is a beneficiary and to which a rollover con-  
19 tribution of such distribution could be made under  
20 section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or  
21 457(e)(16) of the Internal Revenue Code of 1986, as  
22 the case may be.

23 (2) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER  
24 THAN IRAS.—For purposes of the Internal Revenue  
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1 Code of 1986, if a contribution is made pursuant to  
2 paragraph (1) with respect to a qualified furlough  
3 distribution from an eligible retirement plan other  
4 than an individual retirement plan, then the tax-  
5 payer shall, to the extent of the amount of the con-  
6 tribution, be treated as having received the qualified  
7 furlough distribution in an eligible rollover distribu-  
8 tion (as defined in section 402(c)(4) of such Code)  
9 and as having transferred the amount to the eligible  
10 retirement plan in a direct trustee to trustee trans-  
11 fer within 60 days of the distribution.

12 (3) TREATMENT OF REPAYMENTS FOR DIS-  
13 TRIBUTIONS FROM IRAS.—For purposes of the Inter-  
14 nal Revenue Code of 1986, if a contribution is made  
15 pursuant to paragraph (1) with respect to a quali-  
16 fied furlough distribution from an individual retire-  
17 ment plan (as defined by section 7701(a)(37) of  
18 such Code), then, to the extent of the amount of the  
19 contribution, the qualified furlough distribution shall  
20 be treated as a distribution described in section  
21 408(d)(3) of such Code and as having been trans-  
22 ferred to the eligible retirement plan in a direct  
23 trustee to trustee transfer within 60 days of the dis-  
24 tribution.

25 (d) SPECIAL RULES.—

1           (1) QUALIFIED FURLOUGH DISTRIBUTIONS  
 2           TREATED AS MEETING PLAN DISTRIBUTION RE-  
 3           QUIREMENTS.—For purposes of the Internal Rev-  
 4           enue Code of 1986, a qualified furlough distribution  
 5           shall be treated as meeting the requirements of sec-  
 6           tions 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11),  
 7           and 457(d)(1)(A) of such Code, whichever is applica-  
 8           ble.

9           (2) RELIANCE ON REPRESENTATION.—An eligi-  
 10          ble retirement plan may rely on an individual’s writ-  
 11          ten representation that the individual is an applica-  
 12          ble individual who has not received previous qualified  
 13          furlough distributions in excess of the dollar limita-  
 14          tion under subsection (e)(1)(B).

15          (e) DEFINITIONS.—For purposes of this section—

16           (1) QUALIFIED FURLOUGH DISTRIBUTION.—

17           (A) IN GENERAL.—Except as provided in  
 18           subparagraph (B), the term “qualified furlough  
 19           distribution” means any distribution from an  
 20           eligible retirement plan to an applicable indi-  
 21           vidual if the distribution is made—

22                   (i) after January 1, 2019, and

23                   (ii) during a covered lapse in appro-  
 24                   priations or the 90 days immediately fol-  
 25                   lowing a covered lapse in appropriations.

1 (B) DOLLAR LIMITATION.—

2 (i) IN GENERAL.—The aggregate  
3 amount of distributions received by an in-  
4 dividual which may be treated as qualified  
5 furlough distributions for any taxable year  
6 shall not exceed the excess (if any) of—

7 (I) \$30,000, over

8 (II) the aggregate amounts treat-  
9 ed as qualified furlough distributions  
10 with respect to such individual for all  
11 prior taxable years.

12 (ii) AGGREGATION.—Distributions re-  
13 ceived from all eligible retirement plans  
14 shall be aggregated for purposes of the dol-  
15 lar limitation under clause (i).

16 (2) ELIGIBLE RETIREMENT PLAN.—The term  
17 “eligible retirement plan” has the meaning given  
18 such term by section 402(c)(8)(B) of the Internal  
19 Revenue Code of 1986.

20 (3) COVERED LAPSE IN APPROPRIATIONS.—The  
21 term “covered lapse in appropriations” means any  
22 lapse in appropriations that begins on or after De-  
23 cember 22, 2018.

24 (4) APPLICABLE INDIVIDUAL.—The term “ap-  
25 plicable individual” means any individual—

1 (A) who is a Federal employee furloughed  
2 due to a covered lapse in appropriations,

3 (B) who is placed on unpaid leave as a  
4 Federal contractor, or as an employee of a Fed-  
5 eral contractor, due to a covered lapse in appro-  
6 priations, and whose sole source of earned in-  
7 come (as defined in section 32(c)(2) of the In-  
8 ternal Revenue Code of 1986) is (but for such  
9 lapse) remuneration as such a contractor or em-  
10 ployee thereof,

11 (C) who is an employee of a State or other  
12 Federal grantee—

13 (i) whose compensation is advanced or  
14 reimbursed in whole or in part by the Fed-  
15 eral Government, and

16 (ii) who is furloughed due to a covered  
17 lapse in appropriations, or

18 (D) who is an employee of the District of  
19 Columbia Courts, the Public Defender Service  
20 for the District of Columbia, or the District of  
21 Columbia government and is furloughed due to  
22 a covered lapse in appropriations.

23 Such term shall include any excepted employee and  
24 any employee performing emergency work, as such

- 1 terms are defined by the Office of Personnel Man-
- 2 agement, during a covered lapse in appropriations.

